

The Application of Restorative Justice in Juvenile Delinquency

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Abstract:

Restorative justice is an important modern approach to ending criminal prosecution and resolving public lawsuits friendly through mechanisms and procedures carried out by the competent judicial authorities. Legislation has moved to regulate restorative justice through legal texts and apply it to certain crimes eventually extending it to offenses committed by juveniles. This focuses on juveniles' rehabilitation and reintegration into society.

Keywords: Restorative justice; Juvenile delinquency; Penal mediation; Reconciliation; Termination of the lawsuit.

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1. INTRODUCTION

Modern legislation increasingly emphasizes reconciliation as an alternative to ending prosecution within the framework of restorative justice. This approach resolves public lawsuits amicably, eliminating any criminal follow-up by the relevant judicial authorities. Given the growing importance of restorative justice, legal texts have sought to codify and implement its provisions, extending its application to crimes committed by juveniles, particularly through penal mediation initiated by the public prosecutor in certain juvenile delinquency cases. The goal is to rehabilitate the juvenile offender, sparing them the various judicial procedures that characterize public lawsuits, investigations, and trials, which can be complex in some cases.

The juvenile offender is, in reality, a victim of their own crimes due to the negative impact on their behavior. If not properly rehabilitated, this behavior may lead to further delinquency and deeper involvement in criminal activity, especially given societal perceptions and the resentment, grudges, and desire for revenge that criminal prosecutions can sometimes foster. Additionally, prosecuting a juvenile may label them as a criminal, affecting their behavior and reactions.

Thus, penal mediation in juvenile delinquency aims to permanently remove the juvenile from the cycle of crime, even symbolically, and adapt their behavior to societal norms while mitigating the harsh perception of them as criminals. Instead, they are treated as individuals who made an unintentional mistake, as active members of society who need correction and rehabilitation. This is achieved by avoiding the judicial prosecution process and the legal burden on their guardians, all to protect their interests, rehabilitate them, and reintegrate them into society, taking into account their age and mental capacity. This approach fosters a healthy societal nucleus by reforming their behavior and aligning it with principles, values, and legal justice.

Undoubtedly, ending criminal prosecution amicably through mutual agreement is often the best solution for juvenile offenders. This is achieved by promoting reconciliation between the offender and the victim, assessing the harm, and repairing it through appropriate compensation to restore the situation to its pre-crime state.

This mechanism, represented by penal mediation, benefits both the juvenile offender and the victim. Algerian lawmakers have reinforced the concept of restorative justice in juvenile delinquency through Law 15-12 on child protection, particularly in its third chapter titled "Mediation as a Mechanism for Legal Protection of Juvenile Offenders." This paper seeks to highlight the legal framework of penal mediation for juvenile offenders, the conditions for its application, and the key outcomes of its implementation, all within the broader goal of rehabilitating the offender and protecting the rights and interests of the victim. The following questions arise: What are the key legal provisions for penal mediation under child protection law? What are its motivations? And what is its significance for the parties involved in the public lawsuit?

2. The Scope of Penal Mediation in Juvenile Delinquency

Penal mediation is one of the most important legal mechanisms adopted to protect juveniles, serving as an alternative method for resolving criminal lawsuits and reaching solutions that suit the parties involved, especially the juvenile offender, by safeguarding their rights. Mediation is a relatively new procedure in Algerian law, introduced through the Criminal Procedure Code under Executive Decree No. 15-02 dated July 15, 2015¹. It is outlined in Chapter II bis, Articles 37 bis to 37 bis 9, where the Algerian legislature established it as a ground for terminating public lawsuits, and the same code was confirmed after the new criminal procedure code dated on 3 August 2025 which ordered the acts of mediation in its third class in the article 59 and so on².

Prior to this, Algerian lawmakers incorporated mediation into Law No. 15-12 on child protection, dated July 15, 2015³, which includes provisions for terminating public lawsuits and reaching solutions that satisfy both the victim and the juvenile offender while serving the latter's best interests. This represents a significant legislative development, reinforcing restorative justice mechanisms as an alternative way to handle criminal cases as defined by law.

2.1. Definition of Penal Mediation

An examination of the provisions of the Criminal Procedure Code, particularly as amended by Executive Decree 15-02, which introduced mediation as a mechanism for dispute resolution reveals that the Algerian legislature did not explicitly define mediation. This is confirmed by the new law 25-14. Instead, it stated that mediation occurs through a written agreement between the perpetrator of criminal acts and the victim, in accordance with legal requirements. However, Law 15-12 on child protection defines mediation in Article 2 as: "A legal mechanism aimed at reaching an agreement between the juvenile offender and their legal representative on one side, and the victim or their rights holders on the other, with the goal of ending prosecutions, compensating the victim for harm suffered, mitigating the effects of the crime, and contributing to the juvenile's reintegration."

This definition shows that the legislature intended mediation as a means to terminate criminal prosecution, repair harm caused by the crime, limit the spread of criminal behavior, and reintegrate the juvenile into society. It seeks to remove the juvenile from the cycle of crime through an amicable process involving their legal representative and the victim, sparing them the psychological toll of criminal prosecutions and the financial burden on their guardians.

Mediation is thus a non-traditional method for resolving disputes through a third party to reach an amicable solution that ends the conflict between the parties involved in the public lawsuit, who often have close

relationships, such as family members or neighbors⁴. It is a procedure initiated and conducted by a neutral mediator to bridge perspectives, ease tensions, and reach a mutually satisfactory resolution by addressing the consequences of the crime⁵.

From these concepts, it is clear that mediation represents a qualitative leap in criminal procedure law and child protection law, serving as a crucial guarantee for rehabilitating juvenile offenders through an amicable process that serves the interests of all parties. This requires a set of conditions and the initiative of an authorized entity. To understand these conditions and how mediation is presented to the parties, it is essential to examine the types of crimes eligible for penal mediation in juvenile delinquency.

2.2. Crimes Eligible for Penal Mediation

Criminal prosecution is tied to the occurrence of a crime or an attempt to commit one, as prosecution serves as a deterrent and a means to protect violated rights resulting from the crime and its effects. The penal legislature has opted for penal mediation as an alternative to traditional prosecution, reflecting the legislature's assessment that these crimes are minor or do not significantly disrupt public order or morals, or that the disruption is minimal, warranting forgiveness and tolerance to protect a greater interest. The purpose may also be humanitarian or social, aiming to preserve societal cohesion.

The decision to apply mediation remains at the discretion of the competent authorities, represented by the public prosecutor, who determines whether to proceed with this measure based on the principle of expediency in initiating public lawsuits. If the prosecutor deems the case trivial, where punishment would do more harm than good⁶, or if mediation serves individual interests for humanitarian reasons or societal unity, they may opt for mediation.

The crimes eligible for mediation under child protection law include all misdemeanors and violations without restriction, particularly for

misdemeanors. This differs from the Criminal Procedure Code, which specifies which misdemeanors qualify for mediation⁷. The classification of crimes into felonies, misdemeanors, and violations is based on the prescribed penalties⁸ and serves practical purposes, such as determining jurisdiction, procedures, and the nature of the right involved⁹

2.2.1. Violations

Article 110 of the child protection law permits penal mediation for all violations, given their minor severity and limited impact on the victim, especially when committed by a juvenile whose actions may not be inherently harmful or disruptive to society. Penalties for violations are light compared to other crime classifications, as outlined in Article 5 of Law No. 14-01¹⁰: imprisonment from at least one day to a maximum of two months, and fines ranging from 2,000 to 20,000 DZD.

2.2.2. Misdemeanors

In addition to violations, the penal legislature allows mediation for all misdemeanors without restriction, unlike the Criminal Procedure Code. Thus, all misdemeanors are eligible for penal mediation as a means to terminate public lawsuits for juvenile offenses. This is a sound legislative decision and a significant safeguard for juvenile offenders, potentially serving as a path to their rehabilitation. From this perspective, the legislature treats even serious misdemeanors similarly to violations as grounds for accepting mediation conducted by the public prosecutor to settle disputes between the parties, provided both sides agree.

Despite misdemeanors carrying harsher penalties than violations—imprisonment exceeding two months up to five years (unless otherwise specified by law) and fines exceeding 20,000 DZD—mediation remains an option.

The legislature has excluded felonies from mediation due to their severity and impact on society and the victim, subjecting them to traditional dispute resolution methods even if the perpetrator is a juvenile.

3. Parties Involved in Penal Mediation for Juvenile Delinquency

Penal mediation is conducted as stipulated in the child protection law, particularly Article 2, which defines mediation as a legal mechanism aimed at reaching an agreement between the juvenile offender and their legal representative on one side, and the victim or their rights holders on the other. The goal is to end prosecutions, compensate the victim for harm, mitigate the effects of the crime, and contribute to the juvenile's reintegration into society.

This text clarifies that the parties to mediation are: the juvenile offender and their legal representative, and the victim or their rights holders. Article 111 introduces a third party: the mediator, who is the public prosecutor or their designee, such as an assistant or judicial police officer.

3.1. The Mediator

The mediator is the entity responsible for conducting mediation between the juvenile offender and their legal representative on one side, and the victim or their rights holders on the other. The task is typically assigned to someone with expertise and skill in managing this process through serious dialogue and productive discussions aimed at bridging perspectives and resolving the conflict while safeguarding the juvenile's interests and the victim's rights.

Article 111 of Law 15-12 specifies that the mediator may be:

3.1.1. The Public Prosecutor or their Assistant

Mediation can occur at any stage of the investigation, from the date of the crime until the initiation of a public lawsuit, conducted by the public prosecutor or their assistant, given the unity of the public prosecution.

Mediation may be requested by the juvenile, their legal representative, or their lawyer, or initiated voluntarily by the public prosecutor.

The legislature did not assign mediation to any other neutral party, such as judges, lawyers, or other individuals, but vested it primarily in the public prosecutor¹¹ as the representative of the public prosecution. This is a sound choice, as this entity represents society, upholds the law, and possesses the neutrality, expertise, and legal knowledge required for this role, given the unique nature of juvenile delinquency cases and their objectives. Mediation remains contingent on the parties' acceptance and satisfactory outcomes for both sides.

3.1.2. Judicial Police Officers

The law allows the public prosecutor to delegate mediation to a judicial police officer. In this context, the officer attempts to fulfill this role by persuading the parties through their experience and skill in resolving cases wisely, particularly since they oversee the investigative phase and aim to resolve disputes before they reach court. They must respect the dignity and rights of the parties, fostering an atmosphere of understanding and brotherhood to ensure their rights are upheld in a harmonious environment¹².

In such cases, the judicial police officer must document the mediation report and submit it to the public prosecutor for approval and endorsement. The authority to accept mediation rests solely with the public prosecutor, who also oversees the judicial police's work in this regard, based on their authority to handle judicial police reports, including mediation records.

3.2. The Juvenile Offender and their Legal Representative

Algerian law defines a child under Article 2 of the child protection law as any person under the age of 18, which is the same as a juvenile. A juvenile offender is a child who commits a criminal act under the penal code and

supplementary laws, as stipulated in Article 2 of Law 15-12. The legislature requires that the juvenile be at least 10 years old at the time of the offense.

Article 111 of the child protection law states that mediation may be requested by the juvenile, their legal representative, or their lawyer, or initiated voluntarily by the public prosecutor. Thus, the legal representative is a party to the mediation alongside the juvenile, which is logical given that juveniles may not fully discern their best interests. The presence of the legal representative safeguards the juvenile's rights and defends their interests, which is psychologically important for the child. Although the juvenile is the focus of rehabilitation efforts by various authorities, the legislature did not include the lawyer as a formal party to mediation, despite granting them the right to request it. This is because the case has not yet reached court, and the lawyer's role is limited to guidance and proposing solutions.

The legislature defines the legal representative as the guardian, custodian, foster parent, or caretaker, as regulated by family law based on the child's familial status¹³.

3.3. The Victim or their Rights Holders

The victim is a crucial party to mediation, as its legality depends on their participation. The victim is the aggrieved party whose legally protected interests suffer material or moral harm due to the criminal act or are threatened by it¹⁴. The law implicitly requires the victim to have legal capacity, meaning they must be of age and mentally competent, as stipulated in Articles 40 and 41 of the Civil Code¹⁵, to claim their rights in court. If the victim is a minor, mentally incompetent, or lacks full capacity, their legal representative or rights holders may act on their behalf.

Since mediation is a voluntary process, all parties must fully understand its potential outcomes, which may involve benefits or drawbacks. Thus, mutual consent and willingness to assume responsibilities are essential.

Notably, the Algerian legislature treats the victim or their rights holders as key parties to mediation but does not grant them the right to initiate or request it. It would have been preferable for the legislature to allow victims to request mediation, as they are the aggrieved parties, especially if mediation serves their interests better or helps them avoid the time, effort, and uncertain outcomes of court proceedings.

4. Content and Effects of Penal Mediation

Penal mediation is initiated by a request from the juvenile, their legal representative, or their lawyer, or voluntarily by the public prosecution. The public prosecutor alone has the authority to decide whether to proceed with mediation, based on their discretionary power and the principle of expediency in initiating lawsuits. Mediation can occur at any time from the date of the crime until the initiation of a public lawsuit; once the lawsuit is initiated, the right to mediation lapses.

If the public prosecutor opts for mediation, they must ensure the parties' voluntary acceptance, as mediation is a consensual and discretionary process, not mandatory. Article 59 and 60 of the Criminal Procedure Code stipulates that mediation requires the victim's and the accused's acceptance and allows either party to seek legal counsel. This right extends to juveniles, as the child protection law grants lawyers the authority to request mediation. However, the lawyer's role at this stage raises questions, as the law does not include them as a formal party to mediation.

If the public prosecutor decides to proceed with mediation after confirming the parties' voluntary consent, they summon the juvenile, their legal representative, and the victim or their rights holders to discuss the matter, as outlined in Article 111 of the child protection law. The legislature grants the public prosecutor full discretion in managing mediation, without specifying the format of meetings or restricting the parties to certain reconciliation terms¹⁶.

The mediator may meet with each party separately to convey their views to the other side or bring all parties together in a single meeting to present the mediation's content and seek consensus. The mediator facilitates discussions and negotiations to reach a mutually satisfactory solution, leveraging their legal knowledge and dialogue skills.

The legislature does not set a timeframe for mediation, leaving the number and duration of meetings to the public prosecutor's discretion. This raises the question of whether mediation occurs in a single session or multiple sessions over time. This flexibility is appropriate, as the public prosecution seeks to uphold the law and represent society.

4.1. The Mediation Report

If mediation succeeds, a mediation agreement report is drafted, signed by the mediator and the parties, and a copy is provided to each party. If conducted by a judicial police officer, the report must be submitted to the public prosecutor for approval and endorsement.

The report includes the identities and addresses of the parties, a brief description of the facts and actions, their date, and their legal classification as violations or misdemeanors. It also outlines the agreement's terms and the outcomes achieved, with implementation deadlines as specified in Article 63 of the Criminal Procedure Code.

The mediation report, which may include compensation for the victim or their rights holders, serves as an enforceable document and is stamped with the executive formula for enforcement against third parties, per Article 113 of the child protection law and Article 1004¹⁷ of the Civil and Administrative Procedure Code. The agreement cannot be challenged through any appeal process, as stated in Article 37 bis 5 of the Criminal Procedure Code, provided it complies with the law.

The mediation report may also include the juvenile's commitment, under their legal representative's guarantee, to fulfill one or more obligations outlined in Article 114 of the child protection law:

- Undergoing medical monitoring or treatment for addiction or psychological conditions linked to the offense.
- Continuing education or specialized training.
- Avoiding contact with individuals who may facilitate reoffending.

The public prosecutor personally oversees the juvenile's compliance with these measures, demonstrating their commitment to ensuring the mediation's full implementation. For the victim, compensation may be financial or in-kind if restoring the pre-crime situation is impossible, as per Article 37 bis 4 of the Criminal Procedure Code.

4.2. Effects of Accepting Mediation

From the initiation of mediation until the signing of the report, certain effects arise, particularly concerning the public lawsuit and the public prosecution's stance on prosecuting the juvenile. These effects include:

4.2.1. Suspension of the Statute of Limitations

Article 110 of the child protection law states that mediation suspends the statute of limitations for public lawsuits from the date the public prosecutor issues the mediation decision. This is a reasonable legislative assessment. In contrast, Article 66 of the Criminal Procedure Code suspends the statute of limitations only during the mediation implementation period, excluding the negotiation phase. This discrepancy disadvantages the victim, and the legislature should amend Article 66 to align with Article 110 of the child protection law.

Thus, the mediation process, from initiation to successful implementation, suspends the statute of limitations for public lawsuits, safeguarding the parties' rights, particularly the victim's. This prevents the offender from

exploiting mediation to delay proceedings and evade accountability. The legislature's inclusion of mediation as a statutory ground for suspending the statute of limitations ensures that if mediation fails, the time elapsed from the crime's occurrence to the mediation decision counts toward the statute of limitations¹⁸, protecting victims' rights.

4.2.2. Termination of the Public Lawsuit

Successful mediation and confirmation of the juvenile's compliance and the victim's full compensation lead to the termination of the public lawsuit and the juvenile's exemption from further prosecution, as per Article nine¹⁹ of the Criminal Procedure Code. Article 115 of the child protection law similarly states that fulfilling the mediation agreement ends criminal prosecution.

This means the victim cannot pursue the juvenile for the same facts, and these facts cannot be cited as prior offenses in case of recidivism. Additionally, the juvenile's criminal record will not reflect these offenses. If the juvenile fails to meet the mediation obligations within the agreed timeframe, the public prosecutor may initiate a public lawsuit per Article 115 of the child protection law. Article 67 of the Criminal Procedure Code number 25-14 similarly authorizes the public prosecutor to proceed with prosecution if the agreement is not fulfilled.

Article 115 of the child protection law focuses on prosecuting non-compliant juveniles but does not address cases where the victim or their rights holders fail to comply. This omission is logical, as the mediation outcomes typically favor the victim, and their refusal to seek compensation constitutes a waiver of their rights. However, Article 68 of the Criminal Procedure Code stipulates penalties for willful non-compliance with the mediation agreement, as outlined in Article 147 of the Penal Code²⁰.

5. CONCLUSION

Mediation under the child protection law is an innovative procedure for amicably ending criminal prosecutions. It is an effective model of restorative justice, reflecting advancements in the justice sector and the need to adapt to societal and relational developments. The legislature introduced this mechanism in the Criminal Procedure Code and the child protection law to alleviate judicial burdens and reduce the volume of cases, particularly minor ones.

Key provisions of mediation in juvenile delinquency include:

- The right to request mediation lies with the juvenile, their legal representative, or their lawyer, or it may be initiated voluntarily by the public prosecutor, contingent on all parties' consent.
- All mediation procedures are overseen by the public prosecutor, who exercises discretionary authority to accept or reject outcomes in the parties' best interests, particularly the victim's. This ensures legitimacy under judicial oversight.
- Mediation is applicable to violations and all misdemeanors but excluded for felonies due to their severity. It can occur at any time from the crime's occurrence until the public lawsuit's initiation, after which the claim becomes a societal matter.
- A significant advantage of mediation is its suspension of the statute of limitations, safeguarding the victim's rights.
- Penal mediation benefits juvenile offenders by focusing on rehabilitation, reintegration, and sparing them the psychological impact of criminal prosecutions. It is both corrective and therapeutic, representing a major achievement for restorative justice in juvenile cases.

Further research is needed to enhance this mechanism's effectiveness by:

- Emphasizing penal mediation as the primary approach for juvenile delinquency, with criminal prosecution as a last resort, especially when parties voluntarily seek mediation.
- Ensuring mediation remains under judicial authority to guarantee its integrity and efficacy.
- Encouraging multiple mediation sessions if initial attempts fail, prioritizing amicable resolutions over lengthy, psychologically taxing trials.
- Raising public awareness through civil society and institutions to promote restorative justice and focus on juvenile education and rehabilitation.

6. Endnotes

- 1- Executive Decree No. 15-02 dated 23 July 2015 amending and supplementing Decree No. 66-155 dated 8 July 1966 containing the Code of Criminal Procedure, Official Gazette No. 40, issued on 23 July 2015.
- 2 - Code number 25-14 dated on 3 August 2025, contains the code of criminal procedures, official journal number 54, edited on 13 August 2025
- 3-Law No. 15-12 dated 15 July 2015 concerning child protection, Official Gazette No. 39, issued on 19 July 2015.
- 4- Adel Yousef Al-Shukri, In-Depth Studies in the Jurisprudence of Criminal Procedure Law, First Edition, Halabi Legal Publications, Beirut, Lebanon 2014, p. 161.
- 5- Mohamed Badr, Mediation as an Alternative Means for Resolving Civil Disputes - A Comparative Study - First Edition, Umm Al-Qura Foundation, Mansoura, Egypt 2016, p. 86.
- 6- Barash Slimane, Explanation of the Algerian Code of Criminal Procedure, Dar Al-Shihab for Printing and Publishing, Batna, Algeria 1986, p. 82.
- 7- Refer to Article 37 bis-2 of Ordinance No. 15-02 dated July 23, 2015, amending and supplementing the Code of Criminal Procedure.
- 8- Supreme Court, Criminal Chamber, Decision No. 6-2-1979, Case File No. 18.317, Judicial Journal 1989, Issue No. 2, p. 223.
- 9- Ahsan Busqia, Concise Overview of General Criminal Law, Fourth Edition, Dar Houma for Publishing and Distribution, Algeria 2007, p. 26 et seq., See also Mahmoud Najib Hassani, Explanation of the Penal Code General Part, Volume One, Second Edition, Halabi Legal Publications, p. 78 et seq.

10- Law No. 14-01 dated 4 February 2014 amending and supplementing Decree No. 66-156 dated 8 June 1966 containing the Penal Code, Official Gazette No. 7, issued on 16 February 2014.

11 -The Code of Criminal Procedure 25-14 assigned mediation exclusively to the Public Prosecutor as stipulated in Article 59 of Executive Decree.

12- Yasser bin Mohammed Saeed Babseel, Criminal Mediation in Contemporary Systems - An Analytical Study - Master's Thesis in Criminal Justice, Naif Arab University for Security Sciences, 2011, p. 101.

13- See Executive Decree 05-02 dated 27 February 2005 amending and supplementing Law No. 84-11 dated 9 June 1984 containing the Family Code, Official Gazette No. 15, issued on 27 February 2005, regarding guardianship Article 87 et seq., custody Article 92 et seq., foster care Article 99 et seq., sponsorship Article 116 et seq., and child custody Article 62 et seq.

14- Zaki Zaki Hussein Zaidan, The Victim's Right to Compensation for Bodily Harm, Dar Al-Fikr Al-Jami, Alexandria, Egypt 2004, p. 17.

15- Law 05-10 dated 20 June 2005 amending and supplementing Decree 75-58 dated 26 September 1975 containing the Civil Code, Official Gazette No. 44, issued on 26 June 2005.

16- Abdelrahman Khalafi, Criminal Procedures in Algerian and Comparative Law, Dar Balqis for Publishing 2022, p. 259.

17- Law No. 08-09 dated 25 February 2008 containing the Code of Civil and Administrative Procedures, Official Gazette No. 21, issued on 23 April 2008, amended and supplemented by Law No. 22-13 dated 12 July 2022, Official Gazette No. 48, issued on 17 July 2022.

18- See suspension of statute of limitations and its causes, Barash Slimane, Explanation of the Algerian Code of Criminal Procedure, op. cit., pp. 103-104.

19- Executive Decree No. 25-14 dated 3 August 2025 that contains criminal procedures.

20- Article 147 paragraph 2 of the Penal Code stipulates that penalties shall be imposed for: "Public acts, statements or writings aimed at diminishing judicial rulings or that inherently undermine judicial authority or independence."